

## § 743.2

(f) *Frequency and timing of reports.* You must submit reports subject to the provisions of this section semiannually. The reports must be labeled with the exporting company's name and address at the top of each page and must include for each such export all the information specified in paragraph (e) of this section. The reports shall cover exports made during six month time periods spanning from January 1 through June 30 and July 1 through December 31.

(1) The first report must be submitted to and received by BIS no later than August 1, 1998 for the partial reporting period beginning January 15, 1998 and ending June 30, 1998. Thereafter, reports are due according to the provisions of paragraphs (f)(2) and (f)(3) of this section.

(2) Reports for the reporting period ending June 30 must be submitted to and received by BIS no later than August 1.

(3) Reports for the reporting period ending December 31 must be submitted to and received by BIS no later than February 1.

(g) *Mailing address and facsimile number:* (1) Two (2) copies of reports required under this section shall be delivered to one of the following addresses. BIS will not accept reports sent C.O.D.

(i) For deliveries by U.S. postal service:

Bureau of Industry and Security, U.S. Department of Commerce, P.O. Box 273, Attn: "Wassenaar Reports", Washington, D.C. 20044

(ii) For courier deliveries:

Bureau of Industry and Security, U.S. Department of Commerce, Attn: "Wassenaar Reports", Room 2705, 14th Street and Pennsylvania Ave., N.W., Washington, D.C. 20230

(2) Reports may also be sent by facsimile to: (202) 482-3345, Attn: "Wassenaar Reports".

(h) *Contacts.* General information concerning the Wassenaar Arrangement and reporting obligations thereof is available from the Office of Strategic Trade and Foreign Policy Con-

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trols, Tel. (202) 482-0092, Fax: (202) 482-4094.

[63 FR 2458, Jan. 15, 1998, as amended at 63 FR 55020, Oct. 14, 1998; 63 FR 72165, Dec. 31, 1998; 64 FR 3214, Jan. 21, 1999; 64 FR 40110, July 23, 1999; 64 FR 47105, Aug. 30, 1999; 65 FR 12922, Mar. 10, 2000; 65 FR 34075, May 26, 2000; 65 FR 42568, July 10, 2000; 65 FR 60856, Oct. 13, 2000; 66 FR 461, Jan. 3, 2002; 67 FR 10615, 10610, Mar. 8, 2002; 68 FR 10591, Mar. 5, 2003; 68 FR 68980, Dec. 10, 2003]

### § 743.2 [Reserved]

#### SUPPLEMENT NO. 1 TO PART 743— WASSENAAR ARRANGEMENT MEMBER COUNTRIES

Argentina  
Australia  
Austria  
Belgium  
Bulgaria  
Canada  
Czech Republic  
Denmark  
Finland  
France  
Germany  
Greece  
Hungary  
Ireland  
Italy  
Japan  
Luxembourg  
Netherlands  
New Zealand  
Norway  
Poland  
Portugal  
Romania  
Russia  
Slovakia  
South Korea  
Spain  
Sweden  
Switzerland  
Turkey  
Ukraine  
United Kingdom  
United States

[63 FR 55020, Oct. 14, 1998]

## PART 744—CONTROL POLICY: END- USER AND END-USE BASED

Sec.

744.1 General provisions.

744.2 Restrictions on certain nuclear end-uses.

744.3 Restrictions on Certain Rocket Systems (including ballistic missile systems and space launch vehicles and sounding rockets) and Unmanned Air Vehicles (including cruise missile systems, target

drones and reconnaissance drones) End-Uses.

744.4 Restrictions on certain chemical and biological weapons end-uses.

744.5 Restrictions on certain maritime nuclear propulsion end-uses.

744.6 Restrictions on certain activities of U.S. persons.

744.7 Restrictions on certain exports to and for the use of certain foreign vessels or aircraft.

744.8 [Reserved]

744.9 Restrictions on technical assistance by U.S. persons with respect to encryption items.

744.10 Restrictions on certain entities in Russia.

744.11 [Reserved]

744.12 Restrictions on exports and reexports to persons designated in or pursuant to Executive Order 13224 (Specially Designated Global Terrorist) (SDGT).

744.13 Restrictions on exports and reexports to persons designated pursuant to Executive Order 12947 (Specially Designated Terrorist) (SDT).

744.14 Restrictions on exports and reexports to designated Foreign Terrorist Organizations (FTOs).

744.15–744.16 [Reserved]

744.17 Restrictions on certain exports and reexports of general purpose micro-processors for “military end-uses” and to “military end-users.”

744.18 Restrictions on exports, reexports, and transfers to persons designated in or pursuant to Executive Order 13315.

SUPPLEMENT NO. 1 TO PART 744—MILITARY END-USE EXAMPLES FOR § 744.17

SUPPLEMENT NO. 2 TO PART 744 [RESERVED]

SUPPLEMENT NO. 3 TO PART 744—COUNTRIES NOT SUBJECT TO CERTAIN NUCLEAR END-USE RESTRICTIONS IN § 744.2(A)

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004); Notice of November 4, 2004, 69 FR 64637 (November 8, 2004).

SOURCE: 61 FR 12802, Mar. 25, 1996, unless otherwise noted.

#### § 744.1 General provisions.

(a)(1) *Introduction.* In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part contains prohibitions against exports, reexports, and selected transfers to certain end-users and end-uses as introduced under General Prohibition Five (End-use/End-users) and Nine (Orders, Terms, and Conditions), unless authorized by BIS. Sections 744.2, 744.3, 744.4 and 744.5 prohibit exports and reexports of items subject to the EAR to defined nuclear, missile, chemical and biological activities and nuclear maritime end-uses. Section 744.6 prohibits certain activities by U.S. persons in support of certain nuclear, missile, chemical, or biological end-uses regardless of whether that support involves the export or reexport of items subject to the EAR. Sections 744.7 and 744.8 prohibit exports and reexports of certain items for certain aircraft and vessels. Section 744.9 prohibits U.S. persons from providing technical assistance to certain foreign persons seeking to develop or manufacture certain encryption commodities or software. Section 744.10 prohibits exports and reexports of any item subject to the EAR to Russian entities, included in Supplement No. 4 of this part. Sections 744.12, 744.13 and 744.14 prohibit exports and reexports of any item subject to the EAR to persons designated as Specially Designated Global Terrorists, Specially Designated Terrorists, or Foreign Terrorist Organizations, respectively. Section 744.15 describes restrictions on exports and reexports to persons named in general orders. In addition, these sections include license review standards for export license applications submitted as required by these sections. It should also be noted that part 764 of the EAR prohibits exports, reexports and certain in-country transfers of items subject to the EAR to denied parties.

(2) If controls set forth under more than one section of part 744 apply to a person, the license requirements for such a person will be determined based on the requirements of all applicable sections of part 744, and license applications will be reviewed under all applicable licensing policies.

(b) *Steps.* The following are steps you should follow in using the provisions of this part:

(1) *Review end-use and end-user prohibitions.* First, review each end-use and end-user prohibition described in this part to learn the scope of these prohibitions.

(2) *Determine applicability.* Second, determine whether any of the end-use and end-user prohibitions described in this part are applicable to your planned export, reexport, or other activity. See Supplement No. 1 to part 732 for guidance.

(c) A list of entities is included in Supplement No. 4 to this part 744 of the EAR (Entity List). The public is hereby informed that these entities are ineligible to receive any items subject to the EAR without a license to the extent specified in the supplement. No License Exceptions are available for exports or reexports to listed entities of specified items, except License Exceptions for items listed in § 740.2(a)(5) of the EAR destined to listed Indian or Pakistani entities intended to ensure the safety of civil aviation and safe operation of commercial passenger aircraft.

[61 FR 12802, Mar. 25, 1996, as amended at 62 FR 51370, Oct. 1, 1997; 63 FR 64324, Nov. 19, 1998; 66 FR 50091, Oct. 1, 2001; 68 FR 34194, June 6, 2003; 69 FR 56694, Sept. 22, 2004; 69 FR 65369, Nov. 12, 2004]

#### § 744.2 Restrictions on certain nuclear end-uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport to any destination, other than countries in the Supplement No. 3 to this part, any item subject to the EAR without a license if at the time of the export or reexport you know<sup>1</sup> the item will be used directly or

<sup>1</sup>Part 772 of the EAR defines “knowledge” for all of the EAR except part 760, Restrictive Trade Practices and Boycotts. The definition, which includes variants such as “know” and “reason to know”, encompasses more than positive knowledge. Thus, the use of “know” in this section in place of the former wording “know or have reason to know” does not lessen or otherwise change the responsibilities of persons subject to the EAR.

indirectly in any one or more of the following activities described in paragraphs (a)(1), (a)(2), and (a)(3) of this section:

(1) *Nuclear explosive activities.* Nuclear explosive activities, including research on or development, design, manufacture, construction, testing or maintenance of any nuclear explosive device, or components or subsystems of such a device.<sup>2,3</sup>

(2) *Unsafeguarded nuclear activities.* Activities including research on, or development, design, manufacture, construction, operation, or maintenance of any nuclear reactor, critical facility, facility for the fabrication of nuclear fuel, facility for the conversion of nuclear material from one chemical form to another, or separate storage installation, where there is no obligation to accept International Atomic Energy Agency (IAEA) safeguards at the relevant facility or installation when it contains any source or special fissionable material (regardless of whether or not it contains such material at the time of export), or where any such obligation is not met.

(3) *Safeguarded and unsafeguarded nuclear activities.* Safeguarded and unsafeguarded nuclear fuel cycle activities, including research on or development, design, manufacture, construction, operation or maintenance of

<sup>2</sup>Nuclear explosive devices and any article, material, equipment, or device specifically designed or specially modified for use in the design, development, or fabrication of nuclear weapons or nuclear explosive devices are subject to export licensing or other requirements of the Directorate of Defense Trade Controls, U.S. Department of State, or the licensing or other restrictions specified in the Atomic Energy Act of 1954, as amended. Similarly, items specifically designed or specifically modified for use in devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions (except such items as are in normal commercial use for other purposes) are subject to the same requirements.

<sup>3</sup>Also see §§ 744.5 and 748.4 of the EAR for special provisions relating to technical data for maritime nuclear propulsion plants and other commodities.